

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRYAN SCOTT LINTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

Civil Case No: 07-15005
Criminal Case No: 05-20037
Honorable David M. Lawson

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE AND DISMISSING PETITION UNDER 28 U.S.C. § 2255
TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

Presently before the Court is the report and recommendation issued on February 29, 2008, by Magistrate Judge Charles Binder pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1. The petitioner filed a motion to vacate or set aside his sentence under 28 U.S.C. § 2255. The Court referred the motion to Magistrate Judge Binder for report and recommendation. The government filed a response to the petitioner's motion, and filed a motion to dismiss the petitioner's motion. The magistrate judge recommended that the petition for relief be denied and the government's motion to dismiss be granted.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 75] is **ADOPTED**.

It is further **ORDERED** that the government's motion to dismiss [dkt #72] is **GRANTED** and the petition to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 [dkt # 75] is **DISMISSED with prejudice**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 24, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 24, 2008.

s/Felicia M. Moses
FELICIA M. MOSES